

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO/OAKLAND DIVISION

DAVID OSTER, *et al.*,

Plaintiffs

v.

WILL LIGHTBOURNE, Director of the
California Department of Social Services;
TOBY DOUGLAS, Director of the California
Department of Health Care Services;
CALIFORNIA DEPARTMENT OF HEALTH
CARE SERVICES; and CALIFORNIA
DEPARTMENT OF SOCIAL SERVICES,

Defendants

Case No.: CV 09-04668 CW

**~~[PROPOSED]~~ ORDER GRANTING
FINAL APPROVAL OF CLASS
SETTLEMENT**

Hearing Date: May 23, 2013
Time: 2:00 P.M.
Judge: Hon. Claudia Wilken
Address: 1301 Clay Street
Oakland, CA 94612
Courtroom: 2, 4th Floor

Plaintiffs DAVID OSTER, WILLIE BEATRICE SHEPPARD, C.R. by and through his guardian ad litem M.R., DOTTIE JONES, ANDREA HYLTON, HELEN POLLY STERN, CHARLES THURMAN, and L.C. by and through her guardian ad litem M.G. (collectively “Named Plaintiffs”) have filed, and all parties support, a Motion for Final Approval of Class Settlement (“Motion for Final Approval”). The Class Settlement Agreement, entered into by Named Plaintiffs, Union Plaintiffs (Service Employees International Union-United Healthcare Workers, Service Employees International Union-United Long Term Care Workers, Service Employees International Union Local 521, Service Employees International Union California

1 State Council, United Domestic Workers of America, AFSCME Local 3930, AFL-CIO, and
2 California United Homecare Workers), and Defendants, is attached to this order as Exhibit 1.

3 Classes and subclasses in this case have previously been certified under Federal Rule of
4 Civil Procedure 23(b)(2) and need not be amended for purposes of settlement. On April 4, 2013,
5 this Court granted preliminary approval to the Class Settlement Agreement and directed notice of
6 the settlement, its terms, and the applicable procedures and schedules. A Fairness Hearing was
7 held on May 23, 2013 to determine whether the Class Settlement Agreement should be granted
8 final approval pursuant to Federal Rule of Civil Procedure 23(e) as fair, adequate, and reasonable.
9 Class members were given an opportunity to comment on and object to the Class Settlement
10 Agreement in writing and at that Fairness Hearing.

11 Based on consideration of Plaintiffs' moving papers, the arguments of counsel, the
12 objections of class members, and the proceedings in this action to date, the Court hereby finds and
13 concludes that:

- 14 1. The Class Notice distributed to Class Members, pursuant to this Court's prior order,
15 was accomplished in all material respects and fully met the requirements of Federal
16 Rule of Civil Procedure 23, due process, and any other applicable laws.
- 17 2. The Class Settlement Agreement is fair, reasonable, and adequate in all respects. The
18 Class Settlement Agreement provides meaningful relief and is reasonably related to the
19 strength of Plaintiffs' and class members' claims given the risk, expense, complexity,
20 and duration of further litigation. The Class Settlement Agreement is the result of
21 arms-length negotiations between experienced counsel representing the interests of the
22 Plaintiff Class and Defendants, after thorough factual and legal investigation.
- 23 3. The Court has reviewed and considered the objections of class members and finds that
24 they do not raise concerns that warrant rejecting the Class Settlement Agreement. The
25 Settlement Agreement is a reasonable compromise between the parties given the risks
26 of further litigation and the harm that permanent reductions to IHSS eligibility,
27 services, and a larger hours reductions would have caused to all Class members if
28 permitted to go into effect.

IT IS HEREBY ORDERED that:

1. The Court has jurisdiction over the subject matter of this litigation and all matters relating thereto, and over the Plaintiffs and Defendants. Venue is proper in the Northern District of California.
2. Pursuant to Federal Rule of Civil Procedure 23(e), this Court grants final approval to the Class Settlement Agreement, incorporates the terms of the Class Settlement Agreement into this order as though fully set forth, and orders all parties to perform all of their obligations thereunder.
3. This order and the Class Settlement Agreement are binding against the parties, their successors in office, and their respective officers, agents, and employees, and all others acting in concert with them.
4. Plaintiffs are bound by the Class Settlement Agreement not to bring or support any lawsuit challenging any provisions of the Class Settlement Agreement. The Class Settlement Agreement reserves, and does not waive, Plaintiffs' right to challenge, on any ground including those previously asserted in this case, any of the following acts that may occur after this Agreement is signed: any state reductions in participation in IHSS wages and/or state approval of wage reductions in IHSS wages; any state reductions of IHSS hours, services, or eligibility other than those set forth in the Agreement; and any due process challenge to notices of action or provision of hearing rights in relation to IHSS service reductions, assessments, or reassessments other than those required by this Agreement.
5. The Court retains exclusive and continuing jurisdiction over this case, the Named Plaintiffs, the Plaintiff Classes and Subclasses, and Defendants for purposes of supervising and resolving issues relating to administration, implementation, and enforcement of the Class Settlement Agreement; resolving any disputes that may arise regarding the Class Settlement Agreement, its terms, or the enforcement thereof; and fashioning appropriate remedies for any violation of that Class Settlement Agreement. The Court's jurisdiction shall expire 30 months after the date of the Centers for

1 Medicare and Medicaid Services (CMS) approval or disapproval of the Assessment
2 described in Section VI of the Agreement.

- 3 6. As set forth in Paragraph 30 of the Class Settlement Agreement, within 30 days of the
4 date that the appeal in this case has been dismissed and the legislation attached as
5 Exhibit A to the Agreement has been enacted, the parties shall file a Joint Notice and
6 Request for Dismissal. At that time, this Court shall dismiss this case and enter final
7 judgment with prejudice pursuant to the terms of the Class Settlement Agreement,
8 while retaining jurisdiction to enforce the Agreement as set forth above.

9 IT IS SO ORDERED:

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11 DATED: May 23, 2013


The Honorable Claudia Wilken
United States District Judge